

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ANDERSON/GREENWOOD DIVISION

Kenneth Rivera, ) C/A No. 8:22-cv-1994-SAL  
                  )  
                  )  
Plaintiff,     )     **OPINION AND ORDER**  
                  )  
v.                )  
                  )  
Brian P. Stirling, *Director*; Joel Anderson,     )  
*Deputy Director*; Warden Nelson, *Warden*     )  
Ms. Snow, *Inmate Grievance*,                 )  
                  )  
Defendants.     )  
                  )  
\_\_\_\_\_)

This matter is before the court for review of the June 28, 2022 Report and Recommendation of United States Magistrate Judge Shiva V. Hodges (the “Report”). [ECF No. 8.] In the Report, the Magistrate Judge recommends that the court deny Plaintiff’s motion to proceed in forma pauperis and provide Plaintiff twenty-one days to pay the filing fee. *Id.* at 6. If Plaintiff pays the filing fee during that period, the Magistrate Judge recommends that the action be referred back to her for further review. *Id.* However, if Plaintiff fails to pay the filing fee, the Report recommends that the court dismiss Plaintiff’s complaint without prejudice under the three strikes rule of 28 U.S.C. § 1915(g). *Id.* at 6–7. Plaintiff has not filed objections to the Report, and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a de novo determination of only those portions of the Report that have been specifically objected to, and the court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the court is not required to provide an explanation for adopting the

Report and must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the Report, the applicable law, and the record of this case in accordance with the above standard, the court finds no clear error, adopts the Report, ECF No. 8, and incorporates the Report by reference herein. As a result, Plaintiff’s motion to proceed in forma pauperis, ECF No. 2, is **DENIED**. Plaintiff is granted twenty-one days from the date of this Order to pay the filing fee of \$402, and the Clerk of Court is to withhold entry of judgment until such time for payment expires. If Plaintiff timely pays the filing fee, the Clerk is directed to refer this matter back to the Magistrate Judge for further review. If Plaintiff fails to timely pay the filing fee, the Clerk is directed to dismiss the matter without prejudice pursuant to 28 U.S.C. § 1915(g) at the close of the 21-day period.

**IT IS SO ORDERED.**

August 8, 2022  
Columbia, South Carolina

/s/Sherri A. Lydon  
Sherri A. Lydon  
United States District Judge